

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA RECEIVED
SOUTHERN DIVISION

STINNETT GROUP, LLC) 2007 MAY -4 P 2:4b
Plaintiff,) DEBRA P. HACKETT, CLK
v.) U.S. DISTRICT COURT
AUTO OWNERS INSURANCE, et al.,) MIDDLE DISTRICT ALA
Defendants.) CIVIL ACTION NO.: 1:06-cv-634-WKW

MOTION FOR SUMMARY JUDGMENT OF DEFENDANT/COUNTERCLAIM
PLAINTIFF OWNERS INSURANCE COMPANY, INCORRECTLY NAMED IN THE
COMPLAINT AS AUTO OWNERS INSURANCE

COMES NOW Defendant designated in the above-styled action as Auto Owners Insurance (a trade name) whose true and correct name is Owners Insurance Company (hereinafter "Owners Insurance"), who is a member of the Auto-Owners Insurance Group of Companies, and moves this Honorable Court to enter summary judgment in favor of Owners Insurance pursuant to Rule 56(c) of the *Federal Rules of Civil Procedure* and against Plaintiff/Counterclaim Defendant, Stinnett Group, LLC ("Stinnett Group") for the relief demanded in Owners Insurance's counterclaim for declaratory relief and judgment, and against Plaintiff as to Plaintiff's complaint. For grounds of this motion, Owners Insurance avers that there is no genuine issue as to any material fact and that Owners Insurance is entitled to the entry of a judgment in Owners Insurance's favor and against Plaintiff as a matter of law as to Plaintiff's complaint and Owners Insurance's counterclaim. Owners Insurance further avers that it does not owe insurance coverage for defense or indemnity to Plaintiff/Counterclaim Defendant Stinnett Group and that it does not have a duty to provide a defense and does not have a duty to pay any damages, judgment or

settlement for any of the claims, damages or events alleged in the counterclaim, as amended, in the underlying action styled Stinnett Group, LLC, etc. v. Huff & Associates Construction Company, Inc., Civil Action No.: CV-04-797 (hereinafter sometimes referred to as "CV-04-797" or "the underlying action") pending in the Circuit Court of Lee County, Alabama and that Owners Insurance is entitled to judgment as a matter of law as to Plaintiff's complaint herein. This motion is based upon the following:

- a. All pleadings and all exhibits thereto filed in this action.
- b. The certified copies of the complaint of Stinnett Group, LLC, the answer and counterclaim of Huff & Associates, the answer to counterclaim of Stinnett Group, and amendments thereto, and other records filed in the underlying action in the Circuit Court of Lee County, Alabama styled Stinnett Group, LLC, etc. v. Huff & Associates Construction Company, Inc., Civil Action No.: CV-04-797 attached to Owners Insurance's evidentiary submission in support of its motion for summary judgment as Exhibit "1" and filed contemporaneously herewith.
- c. The Owners Insurance Company certified policy of insurance for the policy period 13 September 2002 to 13 September 2003 and the authenticating affidavit of Todd Worley attached to Owners Insurance's evidentiary submission in support of its motion for summary judgment as Exhibit "2" and filed contemporaneously herewith.
- d. The Owners Insurance Company certified policy of insurance for the policy period 13 September 2003 to 13 September 2004 and the authenticating affidavit of Todd Worley attached to Owners Insurance's evidentiary submission in support of its motion for summary judgment as Exhibit "3" and filed contemporaneously herewith.
- e. The Owners Insurance Company certified policy of insurance for the policy

period 13 September 2004 to 13 September 2005 and the authenticating affidavit of Todd Worley attached to Owners Insurance's evidentiary submission in support of its motion for summary judgment as Exhibit "4" and filed contemporaneously herewith.

f. The narrative summary of undisputed facts and brief of Owners Insurance in support of this motion which has been filed contemporaneously herewith, and which is adopted by reference in its entirety as if fully set forth herein.

WHEREFORE, Owners Insurance Company, moves this Honorable Court to enter pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, a summary judgment in Owners Insurance's favor and against Stinnett Group for the relief demanded in Owners Insurance's counterclaim for declaratory relief, and summary judgment in favor of Owners Insurance and against Stinnett Group as to Stinnett Group's complaint for declaratory relief herein.

Dated this the 4th day of May, 2007.



ROGER S. MORROW (MOR032)



JOEL H. PEARSON(PEA019)
Attorneys for Defendant Auto Owners
Insurance, whose true and correct name is
Owners Insurance Company

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following by placing a copy of same in the United States mail, first class postage prepaid on this the 9th day of May, 2007.

Hon. J. E. Sawyer, Jr.
203 S. Edwards Street
Enterprise, Alabama 36330

OF COUNSEL